



MAY 2004 AGENDA

SUBJECT

Action

Consent

☒ Approval ☐ Approval with conditions ☐ Denial

The State Board of Education (SBE) has heard and approved a Waiver Policy number 01-06 Instructional Materials Sufficiency (*Education Code* Section 60119) Waiver of Retroactive Audit. None of these local educational agencies (LEAs) have had a prior year finding and waiver of this type, so this goes to consent.

During audits for fiscal year 2002-2003, it was discovered that the above LEAs did not hold the public hearings notice of sufficiency of instructional materials, or post the notice for ten days prior to the public hearing or post the required notice in three public places as required by *EC* Section 60119.

Education Code (EC) Section 60119, Page 2

Since then, each LEA has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the LEAs has had a previous waiver of this Education Code for the public hearing and ten day notice requirements and/or post the notice in three public places in the 1997-98, 1998-99, 1999-00, 2000-01, or 2001-02 years. Without the waiver, the local educational agencies will have to return **\$7,715,975** to CDE. See attached specifics for each LEA.

Therefore, since the LEA have met the requirements for fiscal year 2003-2004, and agrees to comply with *EC* section 60119 and ensure that the public hearing is held, noticed to the public hearing for ten days, and in three public places, CDE recommends approval of this waiver request.

Authority for the Waiver: EC section 41344.3

Bargaining unit(s) consulted on date(s): Various dates

Position of bargaining unit(s) (choose only one): Various

Name of bargaining unit(s)/representative(s): Various dates

Local board approval date(s): Various dates

Period of request: July 1, 2002 through June 30, 2003

FISCAL ANALYSIS (AS APPROPRIATE)

This waiver if approved will relieve the districts of **\$3,915,758** in total penalties.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

CDSIS – 06-03-2004 – Calexico Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$360,266 in Instructional Materials funds.
- The district was cited for not holding the required public hearing for the sufficiency of instructional materials as required by EC section 60119.
- The district had just hired a new Superintendent and a new Assistant

Education Code (EC) Section 60119, Page 3

- Superintendent in the middle of the school year and the required public hearing was missed.
- Since then, however, the district has held a fully compliant public meeting in accordance with the requirements of EC section 60119 on September 17, 2003 for fiscal year 2003-2004 and the school board passed a resolution certifying that each pupil in each school has sufficient instructional materials and textbooks.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 20-02-2004 – Central Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$458,006 in Instructional Materials funds.
- While the district scheduled the hearing on the sufficiency of instructional materials on the local board's agenda in July of 2003 as a consent item, they failed to hold a public hearing in accordance with EC section 60119.
- The district held a fully compliant public hearing as required by Ed Code Section 60119 on August 26, 2003.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 19-02-2004 – El Monte City School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$521,791 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 during fiscal year 2002-2003. Instead the district held the required public hearing before the beginning of the fiscal year thus creating an audit finding.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by January 1, 2004 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 30-01-2004 – Gustine Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$76,855 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 during fiscal year 2002-2003. The district mistakenly thought that the agenda item for the Language Arts adoption fulfilled the requirement of the public hearing for the sufficiency of instructional materials.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by August 13, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 02-01-2004 – Los Molinos Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of

Education Code (EC) Section 60119, Page 4

- \$26,357 in Instructional Materials funds.
- While the district held a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 during fiscal year 2002-2003, the auditor noted that the time of the public hearing was left off of the official notice.
- Since then the district has instituted a procedure to check for accuracy and compliance for public notices and has held a fully compliant public hearing as required by E.C. Section 60119 by August 14, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 02-02-2004 – Millville Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$9,639 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 during fiscal year 2002-2003 due to a change in personnel.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by January 14, 2004 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 17-03-2003 – Alisal Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$344,763 in Instructional Materials funds.
- The district posted the required notice for 72 hours before the public hearing in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials instead of the required ten days notice.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on February 4, 2004, for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 06-10-2003 – Alum Rock Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$654,574 in Instructional Materials funds.
- The district did not post the notice for ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials; instead they posted the notice for seven days.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on July 23, 2003 for the 2003-2004

Education Code (EC) Section 60119, Page 5

year.

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 24-1-2004 – Fremont Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$1,325,516 in Instructional Materials funds.
- The district posted the notice for the public hearing for six days instead of the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on January 21, 2004 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-154-3-2004 – San Mateo County Office of Education

- Audit finding for the 2002-2003 fiscal year that would require the return of \$43,855 in Instructional Materials funds.
- The district posted the notice for the public hearing for three days instead of the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district held a fully compliant public hearing with a ten days notice on March 17, 2004 for fiscal year 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 141-3-2004 – Sausalito Marin City School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$9,813 in Instructional Materials funds.
- The district did not post the notice of the public hearing in accordance with EC Section 60119 for the required ten days. Instead the district used a 72-hour notification resulting in an audit finding.
- The district held a fully compliant public hearing for the sufficiency of instructional materials on March 11, 2004 for the fiscal year 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 51-02-2004 – South Bay Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$24,836 in Instructional Materials funds.
- The district thought they were posting the public notice ten days in advance for the sufficiency of textbooks and instructional materials according to EC Section 60119. However, they mistakably counted the weekend as part of the ten days and were cited by the auditor for only posting the notice eight days.
- The district has since held a public hearing that was in full compliance with

Education Code (EC) Section 60119, Page 6

the requirements of EC Section 60119 on October 9, 2003 for the 2003-2004 year.

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – Yosemite Joint Union High School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$59,487 in Instructional Materials funds.
- The district was cited in an audit for posting the public notice of the hearing for the sufficiency of instructional materials for seven days. The district staff in charge of posting the notice was new to the district and did not realize that the requirement of this particular Ed Code required a ten day notice period.
- On January 8, 2004, the district has held a fully compliant public hearing meeting all of the requirements for Ed Code section 60119 for fiscal year 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.